

IV. REMARKS

Claims 1-11 are pending. Claims 3 and 7-11 are withdrawn from consideration. Applicant appreciates the indication of allowable subject in claims 2, 5 and 6 but submits that the claims are patentable as is.

Claims 1 and 4 are patentable over Blake, U.S. Patent No. 5,281,220 under 35 U.S.C. 102. Blake fails to disclose or suggest the first and second lever members are positioned relative to the finger loop so that the operator can reposition the other fingers between the first and second lever members with rotation of the finger within the finger loop while operating the medical device with the finger within the finger loop as recited in Applicant's claim 1.

In Blake, the device is structurally configured so that it is operated using a stationary hand grip (32), a moveable hand lever (40) and a slide member (66) including a finger loop (68) (Col. 1, L. 38-65). The slide member (66) moves or slides longitudinally along the tube (16) (Col. 3, L. 41-58). The structure of the device in Blake is not the same as that recited in Applicant's claim 1 as evidenced by the fact that Blake cannot be operated the same way.

The stationary hand grip (32), movable hand lever (40) and slide member (66) of Blake are not positioned on the device of Blake so that the surgeon can reposition the surgeon's fingers while operating the medical device as called for in claim 1. The structure of the device in Blake is such that the medical device will become unstable and the scissor blades (48) will open and close uncontrollably if the surgeon tries to reposition his fingers as argued by Applicant in its prior response, the

arguments of which are incorporated herein in their entirety. This is not what is claimed by Applicant. Claim 1 recites that the first and second lever members are positioned relative to the finger loop so that the operator can reposition the other fingers between the first and second lever members with rotation of the finger within the finger loop while operating the medical device with the finger within the finger loop. The stationary hand grip (32), movable hand lever (40) and slide member (66) of Blake are simply not positioned to allow for repositioning of the fingers as recited in claim 1.

Because of the relative positions of the slide member (66), hand lever (40) and hand grip (32) a surgeon using the device of Blake simply would not be able to operate the device if the device was held in a way that is opposite to that specified in Blake. If a surgeon were to hold the device of Blake with the surgeon's ring finger in finger loop (68), the surgeon's thumb in finger loop (44) and the surgeon's index finger in finger loop (34), the surgeon would not be able to operate finger loop (68) and thus slide member (66) as disclosed in Blake (See Figures 1-2 of Blake). This is the reason that the device of Blake specifically discloses which of the surgeon's fingers goes in which finger loop. The specific recitation of which finger operates which finger loop is required in Blake because of the sliding action of the finger loop (68) and sliding member (66). Thus, the structure of Blake is not the same as that called for in Applicant's claim 1.

There is absolutely no disclosure or suggestion in Blake that the slide member (66), hand lever (40) and hand grip (32) are structurally positioned so that the operator can reposition the other fingers between the first and second lever members with


rotation of the finger within the finger loop while operating the medical device with the finger within the finger loop as recited for in claim 1.

Therefore claim 1 is patentable over Blake. Claims 2 and 4-6 depend from claim 1. While these claims contain their own patentable subject matter, claims 2 and 4-6 are allowable at least because of their respective dependencies

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



William J. Knotts, Jr.
Reg. No. 53,145

9-21-06

Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being transmitted electronically on the date indicated below and addressed to Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 21 September 2006 Signature: 

Lisa Shimizu
Person Making Deposit